



## James Laughland

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James Laughland's practice is predominantly concerned with personal injury and clinical negligence litigation, motor fraud and costs.

James strives to provide pragmatic and prompt advice, whilst recognising that if contested litigation is unavoidable then good preparation is key. Having been in practice now for over 30 years, there is little left to surprise him and being calm under pressure is but one of the attributes noted in the comments made by the leading directories.

He has been recognised for many years as a leader in each of these fields. Respected by both those acting for Claimants and for insurers, he receives instructions regularly from many leading firms.

## Expertise

### Personal Injury

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James is used to dealing with all aspects of personal injury litigation, including amputations and fatal accident claims. He is keen to ensure that the client, whether a lay client or insurer, understands their options and is properly informed and advised as to the best route forward. Whether the case settles at a round-table meeting or is fought through to trial, James will act as a forceful advocate for those who instruct him. He is also very experienced in issues concerning fundamental dishonesty, having acted for the successful Defendant in *LOCOG v Sinfield*, the first High Court decision on this issue. His knowledge of costs law also ensures that the most commercially effective outcome can be achieved. James is trained to act as an arbitrator for personal injury cases.

### Notable Personal Injury cases

[LOCOG v Sinfield \[2018\] EWHC 51 \(QB\)](#)

First High Court decision addressing issues concerning "fundamental dishonesty" within the scope of section 57 Criminal Justice & Courts Act 2015. The Claimant's dishonesty related to his claim for commercial



gardening assistance. He had claimed that he only employed a gardener as a consequence of the accident, whereas in fact he had done so for many years. In addition, his Disclosure List included invoices from the gardener, but in fact these were documents created by the Claimant himself. The trial judge had found dishonesty but held that it was not “fundamental dishonesty”. That decision was overturned on appeal. As a result of the finding of fundamental dishonesty the claim, valued at some £26,000, was struck out and the Claimant ordered to pay the Defendant’s costs of the action and appeal on the indemnity basis.

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## Costs & Litigation Funding

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James has been involved in litigation in costs ever since his involvement in the leading case on wasted costs, *Ridehalgh v Horsefield*, in 1994. Over the years, as various forms of CFA regulation have come and gone, James has been at the forefront of what was then termed the costs war, including having advised The Accident Group on the operation of their scheme. For many years, James has advised one of the country’s leading legal expenses insurers, advising on issues concerning the recoverability of their ATE premiums across a spread of work. This has involved him in some of the leading privacy and defamation claims making representations about how ATE facilitates access to justice. James’ knowledge of costs law assists in ensuring that the pragmatic and commercial realities of litigation are addressed throughout his fields of practice. His experience of detailed assessments, and thus the careful consideration of how solicitors’ work, ensures that he understands the importance of a collaborative and pro-active approach to working with solicitors to ensure the best outcome for their client. James is a member of CADR (the Costs ADR service) and is able to offer expert evaluation and early neutral evaluation.

## Notable Costs & Litigation Funding cases

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### BNM v MGN [2017] EWCA Civ 1767

James Laughland was Junior Counsel in the team that succeeded in persuading the Court of Appeal (the Master of the Rolls, with Longmore LJ and Irwin LJ) that the Senior Costs Judge was wrong to hold that the then new test of proportionality applied to still recoverable additional liabilities. The Court of Appeal unanimously held that the saving and transitional provisions in CPR 48, combined with the more limited definition of “costs” applicable since 1 April 2013 (that omits any reference to “additional liabilities”), together operated to preserve the former Costs Rules, with their attendant Practice Directions, to the assessment of costs that include additional liabilities.

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### Miller v Associated Newspapers Ltd [2017] UKSC 33

Supreme Court. Newspapers’ Article 10 challenge to the payment of Additional Liabilities. James Laughland appeared as Junior Counsel for one of three Respondents in a combined leap-frog appeal brought by three newspapers (The Times, Daily Mail & Mirror) against their liability to pay success fees and after the event insurance premiums to successful litigants in publication cases. The newspapers unsuccessfully argued that the payment of such additional liabilities amounts to a breach of their Article 10 right to freedom of expression under the Human Rights Act.

## Motor Insurance Fraud

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Whether it be staged accidents, fictitious accidents, bogus passenger claims, exaggerated injury or incompatibility of damage, James has been involved in cases across the motor insurance fraud spectrum seeking to expose these claims to protect the interests of insurers and the premium paying public. Attention to detail, coupled with dogged determination and a desire to prevent the fraudsters winning, James has long been instructed by the leading firms and insurers in this field who recognise and appreciate the successes achieved. His robust and effective advocacy in cross-examination has often been complimented in the leading directories. Often such claims involve a credit hire element, a topic with which James is fully familiar.

### Notable Motor Insurance Fraud cases

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Liverpool Victoria Insurance v Yavuz & oths [2017] EWHC 3088 (QB)

Appeared for the successful insurer in a 5-day contempt of court application against 9 Defendants. It was alleged that each had made false statements of truth in County Court personal injury claims in relation to 3 road traffic accidents that had not, in truth, ever occurred or not as described. The High Court Judge was satisfied beyond reasonable doubt that the allegations were proved and imposed prison sentences ranging from 16 months to 4 months, suspended, on all the Defendants.

## Credit Hire

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Credit hire claims raise potentially complex issues, with which James is fully familiar. The technicalities surrounding the recovery of credit hire charges mean that any advocate involved in such work must be able to spot the good argument or potential loophole. For many years James has been instructed by the leading defendant firms acting for insurers seeking to minimise their outlay on this head of loss. He knows his way around the leading cases and also the related procedural rules, thus achieving consistent success in reducing or defeating these types of claims. James' knowledge of costs law can also prove effective in challenging the related costs claims and dealing with QOCS issues.

## Clinical Negligence

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For many years James has acted for Claimants pursuing clinical negligence claims. A wide range of incidents have been addressed providing a range of experience across different medical disciplines. James understands the need for a thorough analysis of the clinical records and is experienced at ensuring that the medico-legal experts undertake a proper review of the material and properly apply their opinions to the relevant legal tests. Managing clients' expectations in a compassionate manner is also key, as often the consequences of the negligence have to be placed in context alongside the pre-existing illness or disease that led to the treatment being provided.



## Education

- BA (Hons) Law, University of Kent

## Memberships

- PIBA